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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,019	09/11/2002	Roger Jette	761-17CON	7554

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EXAMINER

VARNER, STEVE M

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/065,019

Applicant(s)

JETTE, ROGER

Examiner

Steve M Varner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 5, 6, 10-12, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11, 13, 14, of U.S. Patent No. 6,463,704. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claim 1, Jette '704 claim 11 teaches a plurality of support members and cable support basket configured and dimensioned to have a length and width, which define an area less than that of a floor panel of the raised floor system.

Regarding claim 5, Jette '704 claim 13 teaches a cable support basket configured and dimensioned such that the cable support basket is disposed vertically beneath a corresponding floor panel of the raised floor system.

Regarding claim 6, Jette '704 claim 11 and 14 teach four support members, a cable support basket configured and dimensioned to have a length and width, which define an area less than that of a floor panel of the raised floor system.

Regarding claim 10, Jette '704 claim 13 teaches the cable support basket configured and dimensioned such that it is disposed vertically beneath a corresponding floor panel of the raised floor system.

Regarding claim 11, Jette '704 claim 11 teaches a plurality of support members and a plurality of cable support baskets.

Regarding claim 12, Jette '704 claim 11 teaches a plurality of cable support baskets including at least one stringer element.

Claims 2-4, 7-9, 13-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11, 13, 14, of U.S. Patent No. 6,463,704 in view of Greenblatt.

Regarding claim 2-4, 7-9, Jette '704 claim 11 teaches the basic claimed structure. Jette '704 does not teach a plurality of intersecting elements secured together in a substantially planar arrangement, vertical elements formed along at least one side, and wire stock. Greenblatt shows a plurality of intersecting elements secured together in a substantially planar arrangement, vertical elements (40) formed along at least one side, and wire stock. (Fig. 3) It would have been obvious to use such elements as in Greenblatt in the structure of Jette '704 to form a basket to support cables with minimal material.

Regarding claims 13-21, Jette' 704 claim 11 teaches the basic claimed structure. Jette '704 does not teach a plurality of support baskets including a pair of parallel spaced apart stringer elements, a plurality of transverse support sections extending between the pair of stringer elements, open architecture, the cable support baskets on a plane below the pair of stringer elements, each transverse support section of each plurality of cable support baskets includes a riser portion depending from each of the pair of stringer elements and a transverse portion extending between the riser portions, each of the plurality of cable support baskets includes a longitudinal section extending across the transverse portions of the transverse support sections, at least one transverse support section is formed of wire stock, at least one longitudinal section is formed of wire stock, each of the plurality of support members are spaced a distance from an uppermost surface of a respective support pedestal.

Greenblatt shows a plurality of support baskets including a pair of parallel spaced apart stringer elements, a plurality of transverse support sections extending between the pair of stringer elements, open architecture, the cable support baskets on a plane below the pair of stringer elements, each transverse support section of each plurality of cable support baskets includes a riser portion depending from each of the pair of stringer elements and a transverse portion extending between the riser portions, each of the plurality of cable support baskets includes a longitudinal section extending across the transverse portions of the transverse support sections, at least one transverse support section is formed of wire stock, at least one longitudinal section is formed of

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wire stock, each of the plurality of support members are spaced a distance from an uppermost surface of a respective support pedestal. (Fig, 2, 3)

It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use the structure of Greenblatt in the structure of Jette '704 to form a basket to carry cables in with minimal material.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Greenblatt.

Regarding claim 22, Greenblatt shows at least one cable support basket and a plurality of pedestal adapters. (Fig. 3)

Regarding claim 23-26, Greenblatt shows each transverse support member of each cable support basket includes a pair of riser portions depending from a respective stringer elements and a transverse portion extending between distal ends of the pair of riser portions. Greenblatt shows at least one longitudinal member extending across the transverse portions and an open architecture. Greenblatt shows each pedestal adapter

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supports at least an end of two adjacent stringers of two adjacent cable support baskets.

### ***Claim Objections***

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 27 is allowable for the pedestal adapter spaced a distance beneath an uppermost surface of a respective support pedestal.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jette '912 shows a cable support apparatus. Jette '323 shows a flexible cable management system. Jette '870 shows a raised floor system and cable support apparatus. Jette '493 shows a raised floor system and support apparatus.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

SV

April 7, 2003

A handwritten signature in black ink, appearing to be a stylized 'N' or similar character.A handwritten signature in black ink, appearing to be 'Carl D. Friedman'.

Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600